

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Andrew Ridge	Team: Squad #5	CCRB Case #: 201906078	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Monday, 05/20/2019 6:19 PM	Location of Incident: § 87(2)(b)	Precinct: 123	18 Mo. SOL 11/20/2020	EO SOL 7/7/2021	
Date/Time CV Reported Wed, 07/03/2019 3:25 PM	CV Reported At: CCRB	How CV Reported: Mail	Date/Time Received at CCRB Thu, 07/11/2019 1:56 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. SGT Kappa Farid	467	925259	123 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Thomas Matson	23495	957822	123 PCT
2. DT3 William Ubieto	04277	916828	FORCEID
3. POM Justin Valentin	19577	959329	123 PCT
4. POM Marchelo Quagliata	10644	953279	123 PCT
5. POM Joshua Petersen	14629	964212	123 PCT
6. POM Justin Vazquez	14880	965596	123 PCT

Officer(s)	Allegation	Investigator Recommendation
A.SGT Kappa Farid	Abuse: Sergeant Kappa Farid failed to obtain language interpretation services for § 87(2)(b).	§ 87(2)(g), § 87(4-b)
§ 87(2)(g), § 87(4-b)	§ 87(2)(g), § 87(4-b)	§ 87(2)(g), § 87(4-b)

### Case Summary

On July 3, 2019, § 87(2)(b) an attorney, filed this complaint by mail on behalf of her client § 87(2)(b)

On May 20, 2019, at approximately 6:19 p.m., Sergeant Kappa Farid of the 123<sup>rd</sup> Precinct responded to a report of a domestic dispute at § 87(2)(b) in Staten Island. Officers arrested § 87(2)(b) during the incident. Sgt. Farid failed to obtain language interpretation services for § 87(2)(b) during his arrest (**Allegation A: Abuse of Authority**, § 87(2)(g), § 87(2)(g), § 87(4-b)

The investigation obtained one clip of BWC footage each from Police Officers Justin Valentin, Marchelo Quagliata, Joshua Petersen, Thomas Matson, and Justin Vazquez, all of the 123<sup>rd</sup> Precinct (BR01-05, summarized at BR14). All references to video evidence below refer to the time stamp in the video player, not the on-screen clock embedded in the video itself.

### Findings and Recommendations

#### Allegation (A) Abuse of Authority: Sergeant Kappa Farid failed to obtain language interpretation services for § 87(2)(b)

At the time of the incident, § 87(2)(b) resided with his daughter, her husband § 87(2)(b) § 87(2)(b) his § 87(2)(b) granddaughter § 87(2)(b) and another granddaughter who was under five years of age. § 87(2)(b) speaks Taishanese, a Chinese dialect, and does not speak more than a few words of English. § 87(2)(b) could communicate in Taishanese with his children and with § 87(2)(b) but § 87(2)(b) did not speak Taishanese. On the date of the incident, § 87(2)(b) and § 87(2)(b) had a physical altercation which resulted in § 87(2)(b) slashing § 87(2)(b) on the upper back with a pocketknife.

In his CCRB testimony, § 87(2)(b) recounted that § 87(2)(b) left the house to speak to the officers when they arrived on scene (BR06). Three officers entered the house, made statements in English which § 87(2)(b) could not understand, and frisked him. § 87(2)(b) called out in Taishanese to tell § 87(2)(b) who was at the front door, that he needed an interpreter. § 87(2)(b) § 87(2)(b) told § 87(2)(b) that she already used English to ask the officers outside if they could wait for her uncle or mother to return so that one of them could interpret for § 87(2)(b) but that the officers did not listen to her. Eventually the officers arrested § 87(2)(b) and brought him to the 123<sup>rd</sup> Precinct stationhouse.

In her CCRB testimony, § 87(2)(b) recounted that Sgt. Farid obtained an account of the incident from § 87(2)(b) then asked her what language § 87(2)(b) spoke (BR07). Sgt. Farid then entered the house with § 87(2)(b) to find § 87(2)(b) s identification and to get § 87(2)(b) s younger sister. Sgt. Farid did not attempt to converse with § 87(2)(b) inside the house. § 87(2)(b) did not ask § 87(2)(b) to find someone to interpret for him, and she did not attempt to interpret for him. No one asked the officers for an interpreter and the officers did not obtain one.

As will be discussed later, Sgt. Farid did not capture BWC footage of the incident. However, BWC footage from other officers on scene provided a largely complete record of Sgt. Farid's movements throughout the course of the incident.

PO Vasquez's BWC footage shows that Sgt. Farid arrived after other officers had already met § 87(2)(b) outside, entered the house, and apprehended § 87(2)(b) (BR05). Sgt. Farid arrived to find § 87(2)(b) on the front stoop, along with a crying § 87(2)(b) and a neighbor. § 87(2)(b) told Sgt. Farid that he had been stabbed, and Sgt. Farid called for an expedited ambulance response after examining § 87(2)(b) s wound. Sgt. Farid then entered the house briefly and spoke to the officers who were searching § 87(2)(b) Beginning at approximately 05:00 in PO Petersen's BWC footage, the officers tell Sgt. Farid that § 87(2)(b) "doesn't understand English" and "has no English" (BR03). Sgt. Farid asks what language § 87(2)(b) speaks, and the officers say that they do not yet know.

Sgt. Farid then returned to the stoop and asked § 87(2)(b) if he spoke § 87(2)(b) s language. § 87(2)(b) explained that § 87(2)(b) could not understand § 87(2)(b) s language but that she could. Beginning at approximately 02:02 in PO Vasquez's BWC footage, Sgt. Farid obtained an account

of the incident from § 87(2)(b) while standing on the stoop. § 87(2)(b) recounted that he had an argument with § 87(2)(b) began cursing at him, he began trying to film § 87(2)(b) and § 87(2)(b) shoved the camera away and became physically aggressive. § 87(2)(b) pushed § 87(2)(b) and § 87(2)(b) took out a pocketknife. At this point, § 87(2)(b) interjected that § 87(2)(b) was incorrect, and said that § 87(2)(b) pushed § 87(2)(b) to the ground. § 87(2)(b) told her, “Yeah, and then he started coming at me again, right?” § 87(2)(b) replied, “Well, he had to get up.” § 87(2)(b) continued recounting that he pushed § 87(2)(b) onto the couch, and that § 87(2)(b) chased him with the knife and cut him. Sgt. Farid then walked with § 87(2)(b) to the ambulance. A few minutes later, PO Vasquez again stood on the stoop with § 87(2)(b) and she told him that § 87(2)(b) had pushed § 87(2)(b) into a wall. Sgt. Farid was not present at that point.

During the time that Sgt. Farid remained at the ambulance and outside the house, the officers decided to bring a handcuffed § 87(2)(b) to stand in the street. Beginning at approximately 12:50 in PO Quagliata’s BWC footage, Sgt. Farid approaches § 87(2)(b) in the street (BR02). He appears to examine § 87(2)(b)’s head for injuries, and then asks § 87(2)(b) “What happened here?” § 87(2)(b) responds unintelligibly, and Sgt. Farid asks if he is Chinese. § 87(2)(b) says, “No Chinese, no Chinese,” and then makes more unintelligible statements. Sgt. Farid asks, “Are you Chinese? Filipino?” § 87(2)(b) begins calling out unintelligibly in the direction of the house, and Sgt. Farid walks away toward the house.

Officers eventually lodged § 87(2)(b) in a vehicle while they waited to transport him to the stationhouse. Beginning at approximately 17:30 in PO Vasquez’s BWC footage, PO Vasquez attempts to speak to § 87(2)(b) at the vehicle. Sgt. Farid does not appear to be present for the conversation. PO Vasquez asks § 87(2)(b) if he speaks English. § 87(2)(b) replies, “No English,” and then either says “Chinese,” “Taishanese,” or some other word. PO Vasquez asks what happened to his neck and asks him if he was scratched by someone’s nails. § 87(2)(b) seems to say “Yes,” but it is unclear if he understands PO Vasquez’s question. PO Vasquez asks him, “Can you explain what happened here?” PO Vasquez tries to ask if there was a scratch or a weapon, and he makes various hand gestures. § 87(2)(b) makes unintelligible replies and says, “My children.” PO Vasquez asks, “So, who did that?” § 87(2)(b) seems to say, “Fucking guy.” § 87(2)(b) also seems to say, “Fucking guy no good. No fucking good.” PO Vasquez asks § 87(2)(b) how old he is, and asks “Age? How old?” § 87(2)(b) says, “I don’t know English.” PO Vasquez says, “Birthday? Birthday?” § 87(2)(b) clearly cannot understand. PO Vasquez says, “No? Happy Birthday?” § 87(2)(b) laughs and replies, “Happy Birthday?”

The BWC footage shows that Sgt. Farid spent additional time on scene obtaining information from § 87(2)(b) accompanying § 87(2)(b) into the house to search for his identification, calling § 87(2)(b)’s wife to notify her that officers were going to transport the children to the stationhouse, and directing officers to retrieve formula and diapers from the house. At no point during any of the BWC footage does Sgt. Farid obtain language interpretation services for § 87(2)(b) either through the NYPD or from a civilian on scene. No officer obtains an account of the incident from § 87(2)(b) and the officers eventually transport § 87(2)(b) to the stationhouse and lodge him in a cell without obtaining additional information from him and without explaining to him what was happening.

In his CCRB testimony, Sgt. Farid confirmed that he first interviewed § 87(2)(b) upon arriving (BR08). He recounted that, after obtaining § 87(2)(b)’s account, he entered the house and spoke with § 87(2)(b) and § 87(2)(b) together. Sgt. Farid asked § 87(2)(b) about what happened because it was necessary to obtain a statement from him. § 87(2)(b) told Sgt. Farid that § 87(2)(b) stabbed § 87(2)(b). Sgt. Farid then asked § 87(2)(b) about what happened, and § 87(2)(b) spoke to and interpreted for § 87(2)(b) § 87(2)(b)’s account, as interpreted by § 87(2)(b) was that he argued with § 87(2)(b) on the couch about § 87(2)(b)’s homework and that he chased § 87(2)(b) with a knife and stabbed him multiple times. § 87(2)(b) did not receive or ask for help in interpreting and nobody else was available to interpret. Sgt. Farid could not remember whether § 87(2)(b) had a verbal response to being asked what happened aside from speaking to § 87(2)(b). Sgt. Farid could not recall whether § 87(2)(b) ever spoke in English to him. Sgt. Farid ultimately directed officers to arrest

§ 87(2)(b) because he determined that § 87(2)(b) had assaulted § 87(2)(b). Sgt. Farid denied that anyone mentioned that § 87(2)(b) had used any force against § 87(2)(b) during their dispute.

§ 87(2)(g)

He initially explained generally that he would typically separate the individuals involved in a domestic violence incident so he could interview them separately. He confirmed specifically that it was necessary for him to obtain § 87(2)(b)'s statement during the incident. However, he later noted that he arrested § 87(2)(b) based upon the accounts provided by § 87(2)(b) and the other witnesses.

§ 87(2)(g)

. He explained that he typically asks the person who intends to interpret for their age, if they speak the language proficiently, and if they can interpret. He initially said that an adult family member could interpret, but later said that the family member need only be competent and not an "adult." He noted, for example, that he would not seek the services of a five-year-old child for interpretation, but that he would use a child who was "old enough." He recounted asking § 87(2)(b) for her age and learning that she was § 87(2)(b) old. The interpretation from § 87(2)(b) was sufficient in this incident, and it was not necessary for him to seek NYPD interpretation services to verify that § 87(2)(b)'s interpretation was correct. There was no other reason that Sgt. Farid did not obtain NYPD interpretation services.

§ 87(2)(g)

NYPD Patrol Guide Procedure 212-90 mandates that when an officer encounters a Limited English Proficient Person, and no bilingual member-of-service is available to translate, and it is inappropriate given the circumstances to utilize a bilingual member of the public as a translator, an officer should use a Department cellphone to access the Language Line Service (BR09). The procedure specifies that officers must use a certified interpreter or the Language Line Service to verify the details of any domestic violence incident. In addition, the offender in a domestic violence incident should not be used as an interpreter, and officers should interview the offender and the victim separately and in a private setting, to the extent possible. A child should not be used as an interpreter for any domestic violence incident.

Patrol Guide Procedure 208-36 provides specific instructions and guidance to officers responding to incidents of domestic violence and those involving the commission of "Family Offenses" (BR15). A Family Offense is defined as the commission of one of a specific group of crimes and violations against a member of one's household; these crimes include aggravated harassment in the second degree and attempted assault in the third degree. Officers are directed to ascertain the facts of the incident, and to determine whether there is probable cause of any offense having been committed, by interviewing the persons involved separately. In incidents where there is probable cause to believe that multiple persons have committed Family Offense misdemeanors, officers should attempt to identify the primary physical aggressor by considering the comparative extent of any injuries sustained by the parties, whether any party has threatened future harm to the other, whether any party has a prior history of domestic violence, and whether any party acted defensively to protect himself from injury. Officers are advised to arrest the party identified as the primary physical aggressor, or to arrest both parties if the primary aggressor cannot be determined. In addition, officers are advised to arrest both parties when appropriate, even if the primary aggressor is identifiable. The prevention of further violence and the safety of all household members should be the primary consideration, and officers should evaluate each situation separately.

Patrol Guide Procedure 208-36 specifically notes that officers must comply with the guidelines for interacting with Limited English Proficient Persons, and it instructs officers not to use bystanders or family members as interpreters. Officers may use family members as interpreters to stabilize the scene and gather preliminary information, but they must use the Language Line

Service or an officer who is certified in interpretation to verify the details of the domestic violence incident before finalizing the job.

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g), § 87(4-b)

#### **Civilian and Officer CCRB Histories**

- § 87(2)(b) has been party to one additional CCRB complaint and has not been named a victim in additional allegations (BR11):
  - § 87(2)(b)
- § 87(2)(b) has been party to one additional CCRB complaint and has been named as a victim in seven allegations (BR12):
  - § 87(2)(b)
- Sgt. Farid has been a member of service for 19 years and has been a subject in 12 CCRB complaints and 22 allegations, two of which were substantiated:

- Case 200302738 involved a substantiated allegation of refusal to provide name/shield number against Sgt. Farid. The Board recommended Command Discipline and the NYPD imposed Instructions.
- Case 201506660 involved a substantiated allegation of use of pepper spray against Sgt. Farid. The Board recommended Command Discipline B and the NYPD imposed Formalized Training.
- § 87(2)(g) [REDACTED].

### **Mediation, Civil, and Criminal Histories**

- This case was not suitable for mediation.
- As of February 21, 2020, the New York City Office of the Comptroller has no record of a Notice of Claim being filed regarding this complaint (BR13).
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)] [REDACTED]

Squad: 5

Investigator:	<u>DG</u> Signature	<u>IM Giansante for Inv. Ridge</u> Print	<u>April 5, 2020</u> Date
Squad Leader:	<u>Daniel Giansante</u> Title/Signature	<u>IM Daniel Giansante</u> Print	<u>April 5, 2020</u> Date
Reviewer:	_____ Title/Signature	_____ Print	_____ Date